

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**Case Number: 22-14411-CIV-MARTINEZ**

R. DEVINE,

Plaintiff,

v.

JAMES GREGORY ROSENCRANCE,  
d/b/a CLEVELAND CLINIC AND/OR  
INDIAN RIVER HOSPITAL AND /OR  
INDIAN RIVER MEDICAL CENTER,  
AND RALPH BRUCE GEIGER,

Defendants.

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**ORDER GRANTING PLAINTIFF'S MOTION TO DISCONTINUE CASE**

**THIS CAUSE** came before the Court upon Plaintiff's Motion for Voluntary Discontinuous [sic] of Action (the "Motion"), (ECF No. 31), which this Court interprets as a Motion to Dismiss by Plaintiff under Rule 41(a)(2) of the Federal Rules of Civil Procedure. This Court has reviewed the Motion, pertinent portions of the record, and applicable law and is otherwise fully advised in the premises. Accordingly, after careful consideration, the Motion is **GRANTED** as set forth herein.

"Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). "The purpose of the rule 'is primarily to prevent voluntary dismissals which unfairly affect the other side, and to permit the imposition of curative conditions.'" *McCants v. Ford Motor Co.*, 781 F.2d 855, 856 (11th Cir. 1986) (quoting *Alamance Indus., Inc. v. Filene's*, 291 F.2d 142, 146 (1st Cir. 1961)). "[I]n most cases[,] a dismissal should be granted unless the defendant will suffer clear legal prejudice . . . as a result." *Id.* at 856–57 (citing *Holiday Queen Land Corp. v. Baker*, 489

F.2d 1031, 1032 (5th Cir. 1974)). Courts must “weigh the relevant equities and do justice between the parties in each case, imposing such costs and attaching such conditions to the dismissal as are deemed appropriate.” *Id.* at 857 (citing *Am. Cyanamid Co. v. McGhee*, 317 F.2d 295, 298 (5th Cir. 1963)).


Here, Plaintiff moves to dismiss this action *with prejudice*. (ECF No. 31). Defendant does not oppose the Motion. (ECF No. 32). After weighing the relevant equities, and upon its due consideration of the circumstances, this Court finds that dismissal of this case with prejudice under Rule 41(a)(2) is appropriate.

Accordingly, after careful consideration, it is

**ORDERED AND ADJUDGED** that:

1. The Motion, (ECF No. 31), is **GRANTED** as set forth herein.
2. This action is **DISMISSED WITH PREJUDICE**.
3. The Clerk is **DIRECTED** to **CLOSE** this action and **DENY** all pending motions as **MOOT**.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 17 day of July, 2023.

  
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JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
Magistrate Judge Maynard  
R. Devine, *pro se*  
All Counsel of Record